

(Sept 1999)

In instances when California Department of Forestry and Fire Protection (CDF) employees enter upon lands owned or controlled by others, and such entry may, in any manner, change, alter, or modify those lands, or create additional values thereto, the entry must be authorized by proper entry documentation from the person or persons owning or having legal rights in said land.

No real estate document, for example, deed, easement, right of entry, etc, is a valid authority for entry, alternation, or construction on the property of the grantor until it has been approved by the highest level of state government necessary for that particular type of document and ownership involved.

Pursuant to Section 1242 of the Code of Civil Procedure, the state, acting through its employees, may enter upon another's property to make studies, surveys, examinations, tests, soundings, appraisals, or engage in such similar activities. However, Section 1242.5 of the Code holds that, if such entry and activities may cause change or damage to the property, or if there is substantial interference with the possession or use of the property, one of the following must be secured before making entry or undertaking activities:

- The written consent of the owner to enter upon his property to undertake such activities, or
- An Order for Entry from the Superior Court in accordance with the Code. When reasonable belief exists, that entry and subsequent activities will cause no more than inconsequential interference with the property, its possession, or use, no permission for proper entry is required. This would hold true when the intrusion would involve superficial disturbance of vegetation, removal of minor amounts of overlying soil samples, placement of survey markers, or slight transient interference with owner's use and possession of property, as would be responsible under the circumstance of the particular use. For the foregoing, the statute does not expressly require either the owner's permission or a court order. This is considered a "no anticipated damage" entry.

HOWEVER, FOR PUBLIC RELATIONS REASONS, AN ATTEMPT SHOULD BE MADE TO CONTACT PROPERTY OWNERS OR OCCUPANTS BEFORE ENTERING THEIR PROPERTY.

If actual damage or substantial interference with the possession or use of the property is reasonably foreseen, written consent to enter the property must be obtained on a CDF Standard Form A-19, Agreement, or its equivalent, from the

property owner (or a court order if property owner withholds his consent), as stated under Code of Civil Procedure §1242.5. Actual damage or substantial interference may include, but is not limited to the following: digging excavations, test holes or borings; cutting vegetation; clearing land; moving earth; using explosives; or employing vehicles or mechanized equipment other than that normally used on the property.

See Sections 3334.3 and 3334.4 for acquisition of Easements or Rights-of-Way and the use of CDF Standard Form A-19.

**FORMS AND/OR FORMS SAMPLES: RETURN TO ISSUANCE HOME PAGE
FOR FORMS/FORMS SAMPLES SITE LINK.**

[\(see next section\)](#)

[\(see Table of Contents\)](#)